

DEPARTMENT OF EDUCATION (ED)**Statement of Regulatory and Deregulatory Priorities****General**

The Department supports States, local communities, and higher education institutions to improve education nationwide. The Department's roles include leadership and financial support for education to agencies, institutions, and individuals in situations where there is a national interest; monitoring and enforcement of civil rights in the area of education; and support for research, evaluation, and dissemination of findings to improve the quality of education. ED works in partnership with parents, neighborhoods, schools, colleges, educators, business leaders, and communities and States across the country.

During the past 18 months, in response to President Clinton's "Regulatory Reinvention Initiative," announced March 4, 1995, the Department conducted a comprehensive review of its programs, legislation, and implementing regulations to enhance partnerships, increase flexibility, and improve accountability. In a June 1, 1995, report to the President, the Secretary promised to eliminate 842 pages of the Department's regulations in the Code of Federal Regulations (CFR) and to reinvent 1,142 pages, for a total of 1,984 pages representing 93 percent of the Department's regulations. The Department has fulfilled this commitment through a dedicated Departmentwide effort recognizing that students and educational partners are best served by regulations that focus on critical steps and results, allow as much flexibility as possible consistent with statutory and program goals, and impose the least possible burden.

Woven throughout the Department's reinvention is a commitment to provide quality customer service in the spirit of continuous improvement to assure that we are truly "putting people first." The Department listens to our customers to identify their needs and incorporates their suggestions into program goals and strategies.

In order to provide information and support enhanced exchange, the Department instituted 1-800-USA-LEARN to connect our customers to a "one-stop-shopping" center for information about departmental programs and initiatives, 1-800-4FED-AID for information on student aid, and an on-line library of information on

education legislation, research, statistics, and promising programs. More than 10,000 people take advantage of these resources every week.

The Department has forged effective partnerships with customers and others to develop policies, regulations, guidance, technical assistance, and compliance approaches. The Department has an impressive record of successful communication and shared policy development with affected persons and groups, including parents, representatives of State and local government, institutions of higher education, school administrators, teachers, students, special education and rehabilitation service providers, professional associations, advocacy organizations, business, and labor.

In particular, the Department continues to seek greater and more useful customer participation in its rulemaking activities through the use of negotiated rulemaking and new technology. When rulemaking is determined to be absolutely necessary, customer participation is essential and sought at all stages—in advance of formal rulemaking, during rulemaking, and after rulemaking is completed in anticipation of further improvements through statutory or regulatory changes. The Department has expanded its outreach efforts through the use of satellite broadcasts, electronic bulletin boards, and teleconferencing. For example, the Department now invites comments on all proposed rules through the Internet.

The Department is also seeking significant program improvements, leading to major regulatory reforms, through its statutory reauthorization proposals for the education of individuals with disabilities, which would consolidate 14 discrete categorical programs into 5 broad program authorities that will support State and local implementation of the Individuals with Disabilities Education Act and improve results for children with disabilities. The Department's reauthorization proposal would reduce unnecessary paperwork and burden so that resources can be focused on improving teaching and learning. Congressional action on the Department's proposal is pending.

The Department is streamlining information collections, reducing burden on information providers involved in ED programs, and making information maintained by the Department easily available to the public. Coordinating similar information collections across programs

may be one approach to reduce overlapping and inconsistent paperwork requirements. To the extent permitted by statute, regulations will be revised to eliminate barriers that inhibit coordination across programs (such as by creating common definitions), to reduce the frequency of reports, and to eliminate unnecessary data requirements.

The Department's Principles for Regulating, developed in October 1994 during planning to implement the Improving America's Schools Act of 1994, determine when and how it will regulate. Through aggressive application of the following principles, the Department has eliminated outdated or unnecessary regulations and identified situations in which major programs could be implemented without any regulations or with only limited regulations.

Principles for Regulating

The Department will regulate only if regulating improves the quality and equality of services to the Department's customers, learners of all ages. The Department will regulate only when absolutely necessary, and then in the most flexible, most equitable, and least burdensome way possible.

Whether to Regulate:

- When essential to promote quality and equality of opportunity in education;
- When a demonstrated problem cannot be resolved without regulation;
- When necessary to provide legally binding interpretation to resolve ambiguity;
- Not if entities or situations to be regulated are so diverse that a uniform approach does more harm than good.

How to regulate:

- Regulate no more than necessary;
- Minimize burden and promote multiple approaches to meeting statutory requirements;
- Encourage federally funded activities to be integrated with State and local reform activities;
- Ensure that benefits justify costs of regulation;
- Establish performance objectives rather than specify compliance behavior;
- Encourage flexibility so institutional forces and incentives achieve desired results.

Regulatory and Deregulatory Priorities for the Next Year***Student Financial Aid Improvements***

For student financial aid programs, significant improvements have been made during the last 3 years to reduce

paperwork, create less complex applications, and provide faster access to funds. Through a comprehensive review and extensive consultation with the higher education community, the Department is pursuing several opportunities for reducing regulatory burden on schools and colleges.

The Department is continuing to design new approaches to managing the title IV student aid programs to minimize regulatory burden on students, families, and participating institutions. Working closely with institutions and associations, the Department is searching for additional changes that will reduce burden while maintaining program integrity.

The Improving America's Schools Act of 1994 amended the General Education Provisions Act to decrease from 5 years to 3 years the length of time that a recipient of Federal funds is required to maintain records. The Department expects to reduce administrative burden by incorporating these changes, establishing record retention standards for institutions, and consolidating and clarifying existing rules for record retention.

The Department will coordinate these initiatives with improvements in its administrative operations, with the broad goal of simplifying participation in title IV programs, streamlining communications and reporting, and emphasizing compliance through technical assistance and cooperation. These efforts are also expected to yield proposals for statutory changes, particularly as part of the upcoming reauthorization of student aid programs.

Education Department General Administrative Regulations (EDGAR) Selection Criteria

The Department initiated a review and evaluation of the EDGAR select criteria for discretionary grant programs that do not have regulations. (See section 75.210 of 34 CFR part 75 (Direct Grant Programs).) A notice of proposed rulemaking was issued on July 16, 1996 (61 FR 37184). A cross-section of Department program, legal, and administrative personnel developed a "menu" of selection criteria that will be appropriate for many of the Department's discretionary grant programs now implemented through individual program regulations.

By using an extensive menu of EDGAR selection criteria appropriate for a wide variety of the Department's programs (e.g., research, planning, demonstration, training, fellowship, and field-initiated programs), as well as for

more traditional grant programs, and allowing variable weights to be assigned for these criteria, the individual sets of regulations needed for these programs could be substantially reduced or eliminated. This would benefit the Department's customers by reducing regulatory burden and increasing program flexibility. As many as 52 existing regulations could be eliminated or reinvented as a result of this action.

Vocational and Adult Education (Reinvention and Elimination of Regulations)

Under the Department's proposed vocational education legislation (H.R. 1426, S. 696), separate set-asides and categorical authorities would be eliminated and replaced by one State-administered program, one broad discretionary grant program for national needs, and two small special-purpose authorities. The administrative and paperwork requirements under the State-administered program would be scaled back significantly in favor of accountability for results.

The Department's adult education legislation (H.R. 1605, S. 797) proposal includes the consolidation of 12 programs into 1 administered by States and substitutes performance measures for burdensome process requirements.

Since action on the Workplace and Career Development Act of 1996 (H.R. 1617) has been deferred by the Congress, the Department is moving forward with a review of the existing regulations governing adult and vocational education programs in order to meet the Secretary's commitment to eliminate or reinvent them as part of the Regulatory Reinvention Initiative.

Elimination of Regulations

In response to the President's "Regulatory Reinvention Initiative" directing heads of departments and agencies to eliminate outdated regulations and modify others to increase flexibility and reduce burden, the Department has so far eliminated 130 entire regulations from the CFR, totaling approximately 678 pages (60 FR 27223, May 23, 1995; 60 FR 34800, July 3, 1995; 60 FR 50774, September 29, 1995; 60 FR 18680, April 29, 1996; and 61 FR 32656, June 25, 1996). This constitutes more than 31 percent of the pages of Department regulations existing prior to the initiative. Certain additional postsecondary education regulations have also been reviewed and are targeted for elimination under the Department's plan for regulatory reinvention. The Department is

continuing to review its existing regulations to identify further opportunities for regulatory reinvention.

ED—Departmental Management (EDMAN)

FINAL RULE STAGE

16. REVISED EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR) SELECTION CRITERIA

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1221e-3; 20 USC 3474

CFR Citation:

34 CFR 75

Legal Deadline:

None

Abstract:

These regulations would expand the current EDGAR selection criteria in 34 CFR 75.210. Section 75.210 provides selection criteria for discretionary grant programs without implementing regulations. This regulatory action would create an extensive menu of criteria that could be used for a variety of the Department's programs, including research, planning, demonstration, training, fellowship, and field-initiated programs.

Statement of Need:

These regulations would reduce the need for separate sets of regulations to govern individual discretionary grant programs.

Summary of the Legal Basis:

Use of the EDGAR selection criteria would be determined on a program-by-program basis, subject to the applicable statutory program authority and program needs for effective and efficient operation.

Alternatives:

The EDGAR selection criteria would be developed as an alternative to issuing regulations for each of the individual programs that are able to use them.

Anticipated Costs and Benefits:

Regulations for programs for which the EDGAR selection criteria are appropriate could be reduced or eliminated. Providing a menu of criteria for which variable weights could be assigned would increase program flexibility.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	07/16/96	61 FR 37184
Final Action	12/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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ED—Office of Postsecondary Education (OPE)**PROPOSED RULE STAGE****17. CAMPUS-BASED PROGRAMS (REGULATORY RELIEF)****Priority:**

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1087aa to 1087ii; 20 USC 421 to 429; 42 USC 2571 to 2756b; 20 USC 1070b to 1070b-3

CFR Citation:

34 CFR 673

Legal Deadline:

None

Abstract:

These proposed regulations would provide regulatory relief, including

substitution of performance standards for procedural requirements wherever possible.

Statement of Need:

These regulations are part of a planned series of regulatory relief measures that apply to the Student Financial Assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended.

Summary of the Legal Basis:

Regulations will be issued under the applicable legal authority for the program.

Alternatives:

The proposed changes would include deleting regulatory provisions common to the three Campus-Based Programs in 34 CFR Parts 674, 675, and 676 and consolidating these provisions in a new Part 673 as an alternative to the existing regulations.

Anticipated Costs and Benefits:

Elimination and consolidation of regulations would reduce regulatory burden and increase program flexibility.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/19/96	61 FR 49390
NPRM Comment Period End	10/21/96	
Final Action	12/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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ED—OPE**FINAL RULE STAGE****18. • ELIMINATION OF REGULATIONS****Priority:**

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1221e-3

CFR Citation:

34 CFR 607 et seq

Legal Deadline:

None

Abstract:

Elimination of these regulations reduces regulatory burden and increases flexibility.

Statement of Need:

As a result of new regulatory reinvention review, the Secretary has determined that regulations for certain postsecondary education discretionary grant programs are no longer needed.

Summary of the Legal Basis:

The Secretary's general authority to rescind regulations is granted in section 410 of the General Education Provisions Act, as amended.

Alternatives:

Not applicable.

Anticipated Costs and Benefits:

Elimination of these regulations reduces regulatory burden and increases flexibility.

Risks:

These regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/07/96	61 FR 52399
Final Action	11/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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ED—OPE

**19. • STUDENT ASSISTANCE
GENERAL PROVISIONS (RECORD
RETENTION)**

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1099c; 20 USC 1141

CFR Citation:

34 CFR 668

Legal Deadline:

None

Abstract:

These amendments revise the existing regulations to decrease from five years to three years the length of time a recipient of Federal funds is required to retain records, consolidate and clarify existing rules on record retention, and establish standards for record retention by institutions.

Statement of Need:

These regulations implement statutory amendments in the Improving America's Schools Act of 1994 decreasing from five to three years the length of time that a recipient of Federal funds is required to maintain records.

Summary of the Legal Basis:

Pub. L. 103-382, enacted October 20, 1994

Alternatives:

The proposed changes reflect statutory amendments that must be incorporated in the regulations.

Anticipated Costs and Benefits:

The proposed changes reduce administrative burden on institutions. Existing rules for record retention will also be consolidated and clarified and standards will be established for record retention by institutions.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/13/96	61 FR 48564
Final Action	12/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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**ED—Office of Vocational and Adult
Education (OVAE)**

PRERULE STAGE

**20. • REGULATORY REINVENTION
FOR ADULT AND VOCATIONAL
EDUCATION PROGRAMS**

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 2301 et seq; 20 USC 2471(b); 20 USC 23341(d)(3); 20 USC 1141(a); 20 USC 3223(a)(1); 20 USC 1225(a); 20 USC 2468; 20 USC 2325(a); 20 USC 2325(d)(1); 20 USC 2466; 20 USC 2421; 20 USC 2424

CFR Citation:

34 CFR 400 to 403; 34 CFR 406; 34 CFR 410 to 413; 34 CFR 415; 34 CFR 421; 34 CFR 425 to 429; 34 CFR 460; 34 CFR 461; 34 CFR 464; 34 CFR 472; 34 CFR 477; 34 CFR 489 to 491

Legal Deadline:

None

Abstract:

These proposed revisions would simplify regulations and reduce regulatory burden by eliminating unnecessary regulations. Regulations would be revised to be more user-friendly and better for our customers.

Statement of Need:

These regulations would eliminate and consolidate existing regulations.

Summary of the Legal Basis:

Regulations will be reviewed on a program-by-program basis, subject to the applicable statutory program authority.

Alternatives:

The purpose of reviewing the adult and vocational education program regulations is to determine whether there are appropriate alternatives to issuing separate sets of regulations to govern individual discretionary grant programs. Many of the existing regulatory provisions are expected to be eliminated or streamlined as a result of the review.

Anticipated Costs and Benefits:

Elimination and consolidation of regulations would reduce regulatory burden and increase program flexibility.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
ANPRM	10/16/96	61 FR 54024
ANPRM Comment Period End	11/15/96	
NPRM	04/00/97	
Final Action	00/00/00	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

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